

**Report of Director of Resources**

**Report to Corporate Governance and Audit Committee**

**Date: 28<sup>th</sup> September 2012**

**Subject: Decision Making Framework; Annual Assurance Report**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

1. This is the annual report to the committee concerning the Council's decision making arrangements, the report does not cover Planning matters as these have been the subject of a previous report to the committee from the Chief Planning Officer, nor does it consider the arrangements for Licensing decisions taken by officers..
2. From the review, assessment and ongoing monitoring carried out and supported by the work undertaken by Internal Audit, the Head of Governance Services has reached the opinion that, overall, decision making systems are operating soundly and that there are no fundamental control weaknesses or, where shortfalls in compliances have been identified, the Head of Governance Services has been assured by Directors that robust action plans are in place for these to be rectified
3. The report also provides details of amendments made to the decision making framework at the Annual Council Meeting on 21<sup>st</sup> May 2012, steps taken to embed these changes, and additional changes to the Council's decision making arrangements arising from the Local Authorities (Executive Arrangements) (England) Regulations 2012 .

**Recommendations**

4. Members are requested to consider and note the positive assurances provided in this report.

## 1 Purpose of this report

- 1.1 This is the annual report to the committee concerning the Council's Decision Making Arrangements, the report does not cover Planning matters as these have been the subject of a previous report to the committee from the Chief Planning Officer, nor does it consider the arrangements for Licensing decisions taken by officers.
- 1.2 The report also provides details of amendments made to the decision making framework at the Annual Council Meeting on 21<sup>st</sup> May 2012, steps taken to embed these changes, and additional changes to the Council's decision making arrangements arising from the Local Authorities (Executive Arrangements) (England) Regulations 2012.
- 1.3 This report provides one of the sources of assurance which the Committee is able to take into account when considering the approval of the Annual Governance Statement.

## 2 Background information

### Decision Making Framework

- 2.1 The Council's decision making framework comprises of the systems and processes through which decision making is directed and controlled. Whilst a number of these systems and processes are put in place in direct response to primary and secondary legislation, others reflect the implementation of locally adopted definitions and choices made to ensure maximum transparency and accountability within Council practice and procedure.
- 2.2 The principal systems and processes are set out in the Council's Constitution as follows;
- Part 2 - Articles of the Constitution
- 2.2.1 **Article 1** (describing the powers and purpose of the Council and the purpose of the constitution), **Article 3** describing the rights of Citizens (for example rights to attend meetings, rights in respect of the forward plan, access to information regarding decisions), **Article 4** – the budget and policy framework of the Authority, **Article 6** the role of function of Scrutiny Boards, **Article 7** the role, form and composition of the Executive, **Articles 8-10** describing the role, function and membership requirements of committees and **Article 13** (which describes requirements relating to decision making);
- Part 3 - Responsibility for Functions
- 2.2.2 The responsibility for Council, Local Choice and Executive functions and how these have been delegated to committees and officers. (Each Director documents how these functions are discharged within their directorate by making and maintaining a sub delegation scheme.)

## Part 4 – Procedure Rules

2.2.3 Rules in relation to the decision making processes, amongst others, and include those relating to;

- Full Council
- The Executive
- Scrutiny
- Area Committees
- Access to Information
- Budget and Policy Framework

## Part 5 - Codes and Protocols

2.2.4 Codes of conduct for members and officers (specifically arrangements for members and officers to register and declare relevant interests) and protocols describing the respective roles of members and officers in decision making.

2.3 In addition to these documented processes there are a number of Statutory Officers appointed to ensure that the Council acts within its powers and budgets. Of particular relevance to decision making are:-

### The Head of Paid Service

2.3.1 In Leeds the Chief Executive, responsible for ensuring that the Council appoints and directs a staff compliment sufficient to ensure that it can fulfil its functions.

### The Monitoring Officer

2.3.2 In Leeds the City Solicitor, responsible for ensuring that the Council acts at all times within its legal authority.

### The Chief Finance Officer

2.3.3 Also known as the Section 151 Officer, in Leeds the Deputy Chief Executive and Director of Resources, responsible for ensuring that the Council acts at all times within its financial capacity.

## Monitoring

2.4 A number of systems are in place to monitor compliance with and to assess the effectiveness of the decision making framework.

2.4.1 In particular the Head of Governance Services monitors arrangements in respect of:-

- Delegation and sub delegation arrangements;
- Forward Plan;
- The use of Special Urgency Provisions;
- Call In; and
- Publication of agendas, delegated decisions and committee minutes.

### **3 Main issues**

- 3.1 The Head of Governance Services has responsibility to ensure that the Council's decision making arrangements are up to date, fit for purpose, effectively communicated, routinely complied with and monitored.
- 3.2 This report provides assurance to the committee on the decision making framework set out and summarised in section two above.

#### **Amendments to the Decision Making Framework**

- 3.3 During the course of any municipal year it is necessary to review and amend the Constitution in order to implement changing legislation and to ensure that it remains an accurate reflection of practice and procedure within the Council. These changes take place in accordance with Article 15 of the Constitution. Any amendments made by the Monitoring Officer in the 2011/12 Municipal Year were recorded as Significant Operational Decisions and published on the Council's web site, amendments made by the Leader of Council or Executive Board were reported to the next available meeting of the Council, and decisions to be taken by Full Council were first considered by the General Purposes Committee in order that recommendations could be made.
- 3.4 In addition an annual review of the Constitution takes place in order to ensure that the Constitution is up to date and fit for purpose. The review which took place in the 2011/12 Municipal Year, was supported by an intention by the Director of Resources to reduce unnecessary bureaucracy within the authority. Amendments were proposed, and Members consulted extensively, which sought to ensure greater opportunity for Members to engage with the decision making process, to speed the implementation of decisions made by Members in Area Committee, and to simplify the processes around decision making for officers.

#### Categories of Decisions

- 3.5 The Council is required by law to determine thresholds; in relation to the financial implications and in relation to impact upon the communities living and working in its area, above which a decision will be classified as a Key Decision. These thresholds have been amended to incorporate the existing £250,000 financial threshold, and to widen the impact threshold to include decisions which have a significant effect upon communities living and working in an area including one ward.
- 3.6 Having reduced the impact threshold for Key Decisions, Council approved the removal of the 'Major' category of decisions from the decision making framework, as those with a significant community impact are now included in the definition of a Key Decision.
- 3.7 The statutory position is that all other decisions are administrative. However there remains a view in Leeds that there are some decisions which have to be exempted from the definition of a Key decision for practical reasons but which nevertheless should be subject to a requirement to record, and similarly that there are decisions which need to be recorded to increase transparency and confidence in the Council's decision making. In Leeds these decisions are defined as Significant Operation Decisions.

## New Regulations

- 3.8 The Local Authorities (Executive Arrangements) (England) Regulations 2012 were made on 10<sup>th</sup> August 2012 and came into effect on 10<sup>th</sup> September 2012. These regulations will necessitate a number of amendments to the Council's existing decision making framework.
- 3.9 The regulations alter the existing decision making framework by requiring the extension of some existing provisions either in terms of the length of notice given, or in terms of the categories of decisions to which provisions apply. However, they also remove some existing requirements.
- 3.10 As a result of the new regulations the Council will no longer be required to maintain a Forward Plan. However, following consultation with General Purposes Committee, it is considered that the Forward Plan provides a helpful mechanism by which to gather together details of all proposed Key decisions and it is therefore intended that the plan will continue to be published.
- 3.11 The new regulations require that 28 days notice of any Key decision is given prior to that decision being made. It is this notice which will now provide the content for the Forward Plan. As the regulations no longer prescribe a date by which the Forward Plan will be published each month it will be possible to amend it as and when necessary to ensure that all Key Decisions are included. Whilst it is intended that the Forward Plan will still be published on a rolling basis with each plan to cover a four month period, it will now be possible to amend each plan in 'real time'.
- 3.12 The Head of Governance Services is of the view that this will minimise the risk of any Key decision having to be taken which is not on the Forward Plan other than in cases of genuine urgency, when the General Exception and Special Urgency provisions will still apply.
- 3.13 There is a new requirement to give notice of the reasons for using either the General Exception or Special Urgency provisions. Whilst this has been part of the adopted practices in Leeds for some time, the Council has not previously made provision for such notice in relation to Key decisions to be taken by Executive Board. This requirement will be met by ensuring that each relevant report contains the reasons for making the decision without the required period of notice.
- 3.14 The Senior Governance Officer responsible for clerking Executive Board will take the lead on implementing these new arrangements and will also highlight on the agenda for each Executive Board meeting which, if any, of the decisions to be made are subject to the General Exception or Special Urgency provisions.
- 3.15 In place of the requirement upon the Leader to submit quarterly reports to the authority in relation to decisions taken under the Special Urgency provisions, is a requirement that the Leader should submit at least one such report annually. It is considered that this Annual Report to Corporate Governance and Audit Committee is an appropriate mechanism for that information to be reported on the Leader of Council's behalf<sup>1</sup>.

---

<sup>1</sup> For 2011/12 this is contained within paragraph 3.38 of this report

- 3.16 The regulations appear to require the formal recording and publication of all Executive Decisions. This would include those decisions currently categorised as Administrative and not subject to any formal control. The Head of Governance Services is seeking clarification from DCLG in this regard, as the resource implications to publish all administrative decisions would be considerable.

### **Embedding the Decision Making Framework**

- 3.17 Following the amendments to the decision making framework, made at the Annual Council Meeting on 21<sup>st</sup> May 2012, the Head of Governance Services arranged a news item on the Council's portal. This information (which linked to the details of the new arrangements) was therefore available to all officers with computer access across the authority for a period in excess of 1 month.
- 3.18 In addition to this the Head of Governance Services arranged to brief Directorate Management Teams across the Council. A briefing on the changes was presented at individual DMT meetings during the month of June.
- 3.19 The Head of Governance Services also offers a training package in relation to the decision making framework through the Council's corporate learning offer, the most recent version of which has been attended by approximately 400 officers, many of which have been prioritised for training due to their significant role in the Council's decision making and wider governance arrangements.
- 3.20 Directors are encouraged to identify, through the appraisal and induction processes any officer in need of the training and to support their application to attend.
- 3.21 Given the changes to the decision making framework which came into effect in May 2012, training has been supplemented over the summer months with an update briefing for those officers who have previously attended the full training seminar or who are working in this area.
- 3.22 The Head of Governance Services intends to provide a full briefing note to each Directorate to be made available to all Officers involved in the decision making process in order to advise them of changes consequential upon the new regulations.
- 3.23 In addition to this the Head of Governance Services is seeking to provide a full day training package which will incorporate aspects of decision making together with finance and procurement, thus enabling officers to explore the processes and procedures in place in the context of decisions that are made on a regular basis across the authority. Directors and their colleagues have also indicated that such provision will be useful to them in furthering their knowledge and their ability to embed the various requirements into their decision making practice.
- 3.24 Governance Services Staff continue to provide support in relation to the decision making framework through the recording and publication of decisions, the monitoring of decisions (including use of provisions such as General Exception and Special Urgency), and advice on exempt and confidential information and guidance to Members on declaration and registration of interests.

## **Performance Monitoring**

- 3.25 To provide a test of the extent to which the council's arrangements are routinely complied with a suite of performance indicators have been established. These are explored further below. In order to ensure continuity of reporting to the Committee these statistics cover the period from June 2011 to August 2012.

### Publication of Agendas

- 3.26 The Council is required to publish agendas and reports for committees five clear working days in advance of a meeting. This requirement is contained within Section 100B of the Local Government Act 1972 for Council Committees and in the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012 for Executive committees. Both pieces of legislation also contain exception provisions for meetings to be called at short notice.
- 3.27 The Head of Governance Service has established a target for 99% of agendas to be issued and published within the five day statutory deadline<sup>2</sup>; this being a reasonable measure of timely transparency and an indication of the extent to which exception provisions are utilised to call meetings at short notice.
- 3.28 Of 384 meetings which took place within the reporting period covered by this report, 13 agendas were not issued within the 5 clear day deadline. 2 of these were meetings which were called at short notice, and their agendas were issued in compliance with the relevant rules. Of the remainder 5 agendas were issued on time and statutory notice was therefore given, but, for a variety of reasons, electronic publication to the Council's website was delayed. In such circumstances the Head of Governance Services took steps to ensure the publication took place as soon as possible thereafter
- 3.29 Overall this gives a performance of 97% of agendas published within the required notice period. This is slight improvement on the 3 previous years which show performance indicators as follows:-

2009	96%
2010	95%
2011	96%
2012	97%

### Publication of Minutes

- 3.30 There is no statutory framework stipulating the time period for the publication of committee minutes. To enable the decisions of the Council to be accessible and transparent the Head of Governance Service has established a local target; this being for 100% of draft minutes to be published on the Council's internet site within ten working days.
- 3.31 In addition, to enable speed of implementation and facilitate Call In, all Executive Board minutes are published within 48 hours of the Executive Board meeting.

---

<sup>2</sup> Licensing Sub Committee's are not bound by these statutory requirements but, for completeness, are included in the monitoring information.

3.32 Of 384 committee meetings which have taken place within the period covered by this report, 15 sets of draft minutes were published outside the deadline. This gives a performance indicator of 96% draft minutes published within the required period.

3.33 This continues the standard set in the 3 previous years which show performance indicators as follows:-

2009	83%
2010	96%
2011	96%
2012	96%

#### Key Decisions on the Forward Plan

3.34 As previously outlined in this report Regulations exist which set out the statutory framework for how Key decisions are taken. A significant element of this are requirements concerning the pre-notification of an intention to take a Key decision. - the purpose being to seek to ensure transparency and allow representations from stakeholders etc.

3.35 To measure effectiveness the Council Business Plan contains a target for 89% of Key decisions to have appeared in the Forward Plan.

3.36 During the period covered by this report of 269 Key decisions taken 18 were not on the Forward Plan. This gives a performance indicator of 93% Key decisions on the Forward Plan. Of these, 17 were decisions taken by Officers and 1 a decision of the Executive Board.

3.37 This is an improvement on the 3 previous years which show performance indicators as follows:-

2009	84 %
2010	89%
2011	84%
2012	93%

3.38 Each of these 18 decisions was taken in accordance with the general exception provisions contained in Regulations. The Head of Governance Services is able to confirm that the Special Urgency Provisions, enabling an Executive Decision to be taken at less than 5 days notice, have not been used during this period.

3.39 During the year Internal Audit identified two particular issues :-

- Some decisions were included on the Forward plan but not taken on the date expected. Failure to 'slip' these decisions onto the next Forward Plan resulted in their not being on the Forward Plan for the period in which the decision was eventually taken. New systems and procedures have now been introduced which ensure that all decisions not yet taken are automatically slipped to the next Forward Plan period.



- There continue to be some decisions which fall within the definition of a Key Decision but which are not placed on the Forward Plan at any stage. Internal Audit has recommended to Directors that budget holders identify any one off spends or aggregate spends which might trigger a requirement for a decision or group of decisions to be treated as Key.

#### Eligible Decisions Open for Call In

- 3.40 The Council has established arrangements for significant Executive decisions<sup>3</sup> to be available for Call In. This allows for Overview and Scrutiny Committees to request a decision, that has been taken, but not yet implemented, to be considered by the relevant Scrutiny Committee. This mechanism is an important element of democratic accountability arrangements in place at Leeds. Crucial to this is ensuring that the vast majority of these eligible decisions are available for Call In and are not exempted by the decision maker<sup>4</sup>. The target established in the Council Business Plan is that 95% of eligible decisions should be open for Call In.
- 3.41 Of 718 eligible decisions taken only 28 were not open for call in. This gives a performance of 96% Key decisions being available for Call In.
- 3.42 This is a decline on the 3 previous years which show performance indicators as follows:-
- |      |     |
|------|-----|
| 2009 | 98% |
| 2010 | 99% |
| 2011 | 98% |
| 2012 | 96% |
- 3.43 Of the decisions which were not open for call in 19 were made by officers and 9 by Executive Board. In the reporting period all those decisions exempted from Call In were exempted on the grounds of urgency.

#### Delegation of Functions

- 3.44 The Constitution documents the delegation of Council and Executive functions to Officers. In turn a framework has been established whereby those functions are sub delegated (normally by Directors) to other officers of the Council. Delegated decisions are cross checked by Governance Services to ensure that decision takers have the necessary sub delegation to make those decisions. These arrangements provide for transparency in terms of officer accountabilities. In summary for 2012;-
- 3.44.1 The practice of concurrent delegation of functions within the Constitution has ceased. In contrast to 14 officers in the 2011/12 municipal year, there are now only 9 officers<sup>5</sup> who receive delegations directly through the Constitution.

<sup>3</sup> All decisions of Executive Board, all executive decisions of Area Committees (until 21<sup>st</sup> May 2012) and all Key and Major decisions of officers are eligible for Call In.

<sup>4</sup> Decisions can be exempted on the grounds of urgency (i.e. that any delay would seriously prejudice the Council's or the public's interests) or where the decision has been the subject of a previous Call In.

<sup>5</sup> The Chief Executive, Assistant Chief Executive (Customer Access and Performance), Director of Adult Social Care, Director of Children's Services, Director of City Development, Chief Planning Officer (those functions which would conflict

- 3.44.2 Each of the 9 officers who have functions delegated to them through the Constitution is required to make a new sub delegation scheme each municipal year to reflect the Executive Arrangements determined by the Leader (and those determined by Full Council concerning Council Functions).
- 3.44.3 The Head of Governance Services has maintained a record of sub delegation schemes as they are made and amended by Directors and can confirm that each Director (or Chief Officer) with functions delegated to them through the Constitution made and reviewed their own sub delegation scheme in the 11/12 Municipal Year. In addition each of the 9 officers with delegations under the 12/13 constitution had made a new sub delegation scheme by the end of May 2012.
- 3.44.4 The Director of Environment and Neighbourhoods and the Director of City Development have, in July, amended their schemes to reflect amendments made to their Delegations in year. The City Solicitor has made amendments to her scheme to reflect custom and practice within her service.
- 3.44.5 These amendments, which are publicised as Significant Operational Decisions, reflect the requirement that each scheme should contain an accurate representation of the way in which functions are carried out and the officers with authority to make decisions under the scheme. In this way they ensure transparency of decision making within the Council in relation to both Council and Executive functions.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.6 The Council's Performance Management Team monitor performance indicators in respect of consultation and engagement.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 The Council's Performance Management Team monitor performance indicators in respect of equalities.

### **4.3 Council policies and City Priorities**

- 4.3.1 The monitoring of City Priorities in relation to consultation and equalities are monitored and reported by the Council's Performance Management Team.

### **4.4 Resources and value for money**

- 4.4.1 Given the assurances made by the Head of Governance Services as a result of the implementation and monitoring of the Council's decision making framework it is considered that the systems and processes in place represent an appropriate use of resources and good value for money.

## **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 The introduction of the Local Authorities (Executive Arrangements) (England) Regulations 2012 alters the legal requirements in relation to access to information and decision making. The Head of Governance Services has responded to these new regulations by introducing amended processes which meet the requirements that the Regulations set out.

## **4.6 Risk Management**

- 4.6.1 The Head of Governance Services gives assurance that the systems and processes that form part of the Council's decision making framework are functioning well and that there are no risks identified by this report.
- 4.6.2 The Head of Governance Services will seek to ensure that new systems and processes introduced to meet the requirements of the new regulations are the subject of substantial guidance to officers, thus minimising any risk inherent in introducing amendments to familiar processes.

## **5 Conclusions**

- 5.1 From the review, assessment and ongoing monitoring carried out and supported by the work undertaken by Internal Audit the Head of Governance Services has reached the opinion that, overall, decision making systems are operating soundly and that there are no fundamental control weaknesses.
- 5.2 Where shortfalls in compliances have been identified, the Head of Governance Services has received assurance from Directors that robust action plans are in place for these to be rectified.

## **6 Recommendations**

- 6.1 Members are requested to consider and note the positive assurances provided in this report.

## **7 Background documents<sup>6</sup>**

- 7.1 None

---

<sup>6</sup> The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.